

Serial No. 10/726,963

PATENT

REMARKS

In the Office Action of July 30, 2009, claims 1, 2, 5 to 7, 9, 17, 18 and 20 to 23 are pending of which claims 1, 2, 5 to 7, 9, 17, 18 and 20 to 23 are rejected.

In particular:

- Claims 1, 2, 5, 6, 9, 17, 18, 20, 22 and 23 are rejected under 35 USC 103(a) as being unpatentable over Brightbill (US 2003/0204245) in view of Cox et al (US 5,824,040)
- Claims 7 and 21 are rejected under 35 USC 103(a) as being unpatentable over Brightbill (US2003/0204245) in view of Cox et al (5,824,040) as applied to claims 1 and 17 above, and further in view of McNamara et al (US 6,004,347)

CLAIM AMENDMENTS

Claim 1 is amended to more particularly define the claimed invention.

We submit that in making these amendments no new subject matter has been added.

DISCUSSIONClaim 1

Claim 1 is rejected under 35 USC 103(a) as being as being unpatentable over Brightbill (US 2003/0204245) in view of Cox et al (US 5,824,040)

The newly cited reference Brightbill relates to the coating of active ingredients onto stents and particularly to regions of stents which are to be overlapped or to overlap another stent and not having active material coating on those overlap portions. Although the drawings of Brightbill show shaded areas on the illustrated stents this is used to indicate what portion of the stent has a coating on it. As described in paragraph [0023]:

"For clarity, it must be set forth that while the coating 120 is depicted as a shaded region of the entire portion of the stent 100 (in this FIG. as well as in all the other FIGS. of this application), in the preferred embodiment the

Serial No. 10/726,963

PATENT

coating covers only the stent framework and does not also cover the openings or cells there between."

This paragraph does go on to say that:

"The invention may also be used on stents featuring a drug delivery vehicle in which the cells are not open, including sheath wrapped stents (such as those depicted in Froix, U.S. Pat. No. 6,019,789) as well as other delivery matrices (such as those depicted in Kaplan, U.S. Pat. No. 5,342,348). In such embodiments the sheath or other delivery matrices would be disposed on only a portion of the length of the stent."

But this is not a description of the type of biocompatible graft material cover outside of the at least one stent thereby defining a covered stent portion and an uncovered stent assembly extending from the covered stent portion as claimed in the present application. We submit that it would be beyond the skill of ordinary skill to read the phrase "would be disposed on only a portion of the length of the stent" and to come up with the claimed configuration.

In relation to the cited reference Cox et al we submit that this reference does not show the specific claimed structure of flexible links. There is also no teaching or suggestion in Cox et al of a plurality of linked stents with only some of those stents being covered, as discussed above and the rest being uncovered.

We submit that for these reasons Claim 1 is patentable over Brightbill (US 2003/0204245) in view of Cox et al (US 5,824,040).

Claims 2, 6, and 9

Claims 2, 6 and 9 are rejected under 35 USC 103(a) as being as being unpatentable over Brightbill (US 2003/0204245) In view of Cox et al (US 5,824,040). These claims depend from a patentable claim 1 as discussed above and hence we submit that Claims 2, 6 and 9 are also patentable over Brightbill (US 2003/0204245) in view of Cox et al (US 5,824,040).

Serial No. 10/726,963

PATENT

Claims 17, 18, 20, 22 and 23

Claims 17, 18, 20, 22 and 23 are rejected under 35 USC 103(a) as being as being unpatentable over Brightbill (US 2003/0204245) in view of Cox et al (US 5,824,040).

Claim 17 is of substantially the same scope as Claim 1 which is patentable as discussed above and hence we submit that Claim 17 and Claims 18, 20, 22 and 23 which depend from it are also patentable over Brightbill (US 2003/0204245) in view of Cox et al (US 5,824,040).

Claims 7 and 21

Claims 7 and 21 are rejected under 35 USC 103(a) as being unpatentable over Brightbill (US 2003/0204245) in view of Cox et al (US 2002/0120327) and further in view of McNamara et al (US 6,004,347)

As discussed above the reference Brightbill does not teach or suggest the covered and uncovered portions of a stent assembly.

Cox et al (US 2002/0120327) is a divisional of a continuation of Cox et al (US 5,824,040) and therefore has the same subject matter and for the same reasons as discussed in relation to Claim 1 we submit that Claims 7 and 21 are not taught or suggested by Cox et al (US 2002/0120327).

There is no teaching or suggestion in Cox et al (US 2002/0120327) of a plurality of linked stents with only some of those stents being covered (as correctly understood), as discussed above and the rest being uncovered.

Claims 7 and 21 depend from patentable Claims 1 and 17 respectively as discussed above and hence we submit that Claim 7 and 21 are patentable. The deficiencies of the references Brightbill and Cox et al as enumerated above are not taught or suggested by the reference McNamara et al. (US 6,004,347)

Summary

None of the cited references Cox et al (US 5,824,040), Cox et al (US 2002/0120327), Brightbill (US 2003/0204245) and McNamara et al (US 6,004,347) whether taken singly or in any allowable combination anticipate, teach or suggest the claimed invention.

Serial No. 10/726,963

PATENT

Overall we submit that all claims are not anticipated and are patentable over the cited references.

The re-examination and reconsideration of this application is respectfully requested and it is further requested that this application be passed to issue.

Although the foregoing discussion is believed to be dispositive of the issues in this case, applicants' attorney requests a telephone interview with the Examiner to further discuss any unresolved issues remaining after the Examiner's consideration of this amendment.

RECEIVED
CENTRAL FAX CENTER

OCT 30 2009

Respectfully submitted,

David Ernest Hartley
Ian Nixon
Peter John Mossop

Date:

Oct. 30, 2009

By

Richard J. Godlewski
Richard J. Godlewski
Reg. No. 30,056
(812) 330-1824